IN THE UNITED STATES DISTRICT COURT FOR THE

EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA)
)
v.) Criminal Number 03-501-A
)
STEVEN Y. LEE,)
)
Defendant)

STATEMENT OF FACTS

The United States and the defendant, Steven Y. Lee, agree that had this matter proceeded to trial, the United States would have proven the following facts beyond a reasonable doubt.

Steven Y. Lee, Jordan N. Baker, and the Law Firm of Lee & Baker

1. The defendant, Steven Yeoul Lee, is a 48-year-old United States citizen. He was born in Korea on August 16, 1955, but became a United States citizen in 1990 through naturalization. He speaks fluent Korean and English. At all times material to this case, the defendant was an attorney in the law firm of Lee & Baker.

2. Jordan N. Baker (hereinafter Baker) is a 36-year-old United States citizen. He was born in this country on April 12, 1967, and speaks fluent English, but no Korean. At all times material to this case, Baker was an attorney in the law firm of Lee & Baker.

3. At all times material to this case, the defendant owned and operated a law practice with one office at 3251 Old Lee Highway in Fairfax, Virginia. This practice was formerly known as Lee, Baker & Warren, PLLC, and as Steven Y. Lee & Associates, PLLC. It is now known as Lee & Baker, PLLC. The defendant and Baker are the sole partners within the firm. The defendant is the senior partner; Baker is the junior partner. The law firm's principal focus is

immigration law, and a substantial part of the defendant and Baker's practice involves service to immigrant clients, most of whom are Korean nationals.

The Labor Certification Process

4. An alien seeking to immigrate to the United States may obtain an immigrant visa in order to perform skilled or unskilled labor in the United States. *See* 8 U.S.C. § 1153(b)(3)(A). If approved, this employment-based visa allows the alien to come to the United States and to apply for lawful permanent residence. In order to apply for such a visa, however, an alien must first obtain a formal certification from the Secretary of Labor that (1) there are insufficient U.S. workers qualified to do the work contemplated and (2) the employment of the alien would not adversely affect the wages and working conditions of U.S. workers similarly employed. *See* 8 U.S.C. §§ 1153(b)(3)(C) and 1182(a)(5)(A).

5. The Department of Labor does not permit an alien to apply for a labor certification on his or her own. Rather, the Department requires the alien's prospective employer to file an Application for Alien Employment Certification, officially known as a Department of Labor form ETA 750, on behalf of the alien. *See* 20 C.F.R. § 656.21. This application has to be completed and signed under penalty of perjury by both the prospective employer and the alien. In part A of the application, the employer represents that the employer has a specific job to fill; describes the nature, location, terms, and requirements of the job; and lists the name, address, and immigration status of the alien seeking the job. In part B of the application, the alien lists his name, address, biographic information, and immigration status; describes his experience and qualifications for the job the employer was offering; and represents that he is willing and qualified to accept the job.

6. Once an application is complete, the prospective employer begins the application process by filing the application with Department of Labor through a designated state employment agency. *See* 20 C.F.R. § 656.21. In Virginia, this agency is the Virginia Employment Commission (VEC); in Maryland, it is the Department of Labor Licensing and Regulation (DLLR). The state employment agency reviews the application for completeness, ensures that the employer was offering the prevailing wage for the job listed in the application, and oversees any recruiting and advertising the employer might be required to do as part of the certification process. Once the state agency completes this portion of the certification process, the agency forwards the application to the appropriate Department of Labor regional office for final determination. The regional office reviews the application and then either issues a final certification on behalf of the Secretary of Labor or denies the application.

7. If the Department of Labor approves the application and issues a certification, the alien's prospective employer may then file an Immigrant Petition for Alien Worker, officially known as a form I-140, on the alien's behalf with the Department of Homeland Security (DHS; formerly the Immigration and Naturalization Service or INS). If approved, this petition results in the issuance of an immigrant visa to the alien and allows the alien to immigrate to the United States and to apply for lawful permanent residence upon arrival.

8. In certain circumstances, an alien already in the United States may also use the labor certification process to remain in the United States as a lawful permanent resident. The initial process is the same as that described in paragraphs four through seven above. The only difference is that an alien in the United States who is the beneficiary of an approved labor certification and I-140 does not need to leave the country, get a visa, and then return. Rather, the

alien may adjust his status to that of a lawful permanent resident by filing an Application to Register Permanent Residency or Adjustment of Status, officially known as form I-485, with DHS. One important restriction exists, however, for aliens who are unlawfully present in the United States at the time they file the I-485. Such aliens may only seek lawful permanent residence through a labor certification if their prospective employer applied for the underlying labor certification prior to April 30, 2001.

9. If an alien beneficiary is unable or unwilling to make use of an approved labor certification, the Department of Labor and DHS allow the petitioning employer to "substitute" another alien beneficiary for the original alien beneficiary. The substituted alien may then use the approved labor certification to apply for lawful permanent residence in the ways described above. Because a "substitution" allows an alien to jump the application queue (which can last a year or more) and immediately receive an approved labor certification, a "substitution" is a highly desirable means of obtaining lawful permanent residence.

Conspiracy to Commit Immigration Fraud: The Cases of John and Jane Doe

10. On or about October 21, 1999, Baker submitted an I-140 petition to the INS on behalf of employer Steven Y. Lee & Associates and alien beneficiary John Doe, a Korean national. Through this application, Steven Y. Lee & Associates sought to substitute John Doe as the alien beneficiary of an already approved ETA 750 application filed by Steven Y. Lee & Associates in June 1999 with the VEC for alien beneficiary John Smith. The I-140 petition was signed by Baker as preparing attorney. Attached to the petition were (1) a cover letter signed by Baker, (2) an approved ETA 750 application offering a full-time position as a legal secretary to alien beneficiary John Smith, and (3) a letter signed by the defendant stating that John Smith was

no longer interested in the job being offered by Steven Y. Lee & Associates, thus creating the need to hire John Doe.

11. A new ETA 750 application for John Doe was enclosed with the I-140 petition submitted by Baker. This new ETA 750 application was signed by the defendant as employer and John Doe as alien beneficiary. It offered John Doe the position of legal secretary previously approved for John Doe. The new application stated that the law firm needed John Doe to work as a legal secretary 40 hours a week at the law firm's office located at 3251 Old Lee Highway in Fairfax, Virginia, suite 204, for a salary of $14.82 per hour.

12. On March 30, 2000, INS approved the I-140 petition and substituted John Doe as the approved alien beneficiary on the underlying ETA 750 application. On April 19, 2000, Baker submitted an I-485 to INS on behalf of John Doe seeking to adjust John Doe's status to that of a lawful permanent resident based on the approved I-140 petition. This application was signed by John Doe under oath as the applicant and by Baker as preparing attorney. In support of the application, Baker included a letter on Lee, Baker & Warren stationery that was signed by the defendant and stated that the law firm still intended to hire John Doe as a full-time legal secretary in the law firm's Fairfax office at a salary of $14.82 an hour.

13. On or about October 15, 2001, Baker responded to a request from the INS to John Doe for various pieces of information needed to adjudicate the I-485 application. Among other things, the INS requested a letter outlining the terms of John Doe's employment and copies of John Doe's pay statements for the prior three months. In his response of October 15, 2001, Baker presented the INS with Lee, Baker & Warren pay statements for John Doe and a letter outlining the terms of John Doe's employment at the firm. This letter, which was signed by the

defendant as "managing member" of Lee, Baker & Warren and dated September 21, 2001, stated that John Doe had been working at the law firm as a legal secretary since December 2000 at a salary of $31,000 per annum plus benefits.

14. On or about October 28, 2001, INS approved John Doe's I-485 application and adjusted his status to that of a lawful permanent resident. Shortly thereafter, INS issued John Doe a green card.

15. On or about December 16, 1999, Baker filed an ETA 750 application with the VEC on behalf of Jane Doe, a Korean national and John Doe's sister. This application was by the defendant as the employer and stated that Lee, Baker & Warren sought to hire Jane Doe as an accountant in the law firm's Fairfax office for 40 hours a week at a salary of $29,141 per annum. The DOL approved the application on January 14, 2000. On or about March 13, 2000, Baker submitted an I-140 petition to the INS on Jane Doe's behalf based on the approved ETA 750 application. The I-140 petition reiterated the offer of employment as an accountant and was signed by the defendant as employer and Baker as preparing attorney. INS approved this petition on August 18, 2000.

16. On or about September 6, 2000, Baker submitted an I-485 application to INS on behalf of Jane Doe seeking to adjust her status to that of a lawful permanent resident based on the approved I-140 petition. This application was signed by Jane Doe under oath as applicant and Baker as preparing attorney. In support of the application, Baker included a letter on Lee, Baker & Warren stationery that was signed by the defendant and stated that the law firm still intended to hire Jane Doe as a full-time accountant in the law firm's Fairfax office at a salary of $29,141 per annum.

17. On or about September 25, 2001, the INS informed Jane Doe that it intended to deny her I-485 application for lack of supporting evidence. In response, Baker submitted a packet of supporting evidence to the INS on behalf of Jane Doe on October 24, 2001. This packet included Lee, Baker & Warren pay statements for Jane Doe and a letter outlining the terms of Jane Doe's employment at the firm. This letter, which was signed by the defendant as "managing member" of Lee, Baker & Warren and dated October 25, 2001, stated that Jane Doe had been working at the law firm as an accountant since January 2001 at a salary of $29,141 per annum.

18. On December 11, 2001, INS approved Jane Doe's I-485 application and adjusted her status to that of a lawful permanent resident. Shortly thereafter, INS issued Jane Doe a green card.

19. John and Jane Doe never worked full-time for Steven Y. Lee & Associates; Lee, Baker & Warren; Lee & Baker; the defendant; or Jordan Baker as a legal secretary or accountant. Rather, the defendant and Baker prepared and filed ETA 750 applications, I-140 petitions, and I-485 applications on their behalf in order to secure both individuals green cards. The defendant and Baker knowingly offered John and Jane Doe non-existent employment and prepared false employment letters, false pay statements, and false checks for John and Jane Doe, all with the intent to mislead the INS into believing that John and Jane Doe were genuine employees when they were not.

Defendant's Acknowledgements Concerning John and Jane Doe

20. For purposes of this statement of facts, the defendant acknowledges and concedes the

following:

a. that the defendant and Baker knowingly prepared fraudulent documents and submitted them to the INS in support of John and Jane Doe's immigration cases.

b. that these documents were designed to mislead the INS concerning material facts, namely the intent of Lee, Baker & Warren (and its predecessor Steven Y. Lee & Associates) to employ John and Jane Doe;

c. that these documents were prepared in and mailed from the Eastern District of Virginia;

d. that the defendant and Baker's efforts caused the INS to adjust John and Jane Doe's status to that of lawful permanent residents in violation of law;

e. that an ETA 750 application, an I-140 petition, and an I-485 application are documents required by the immigration laws and regulations prescribed thereunder; and

f. that, per 8 C.F.R. § 103.2(b)(1), an I-485 application includes all documentary evidence filed in support of the application.

Defendant's Acknowledgements Concerning Additional Acts of Immigration Fraud

21. For purposes of this statement of facts, the defendant acknowledges and concedes the following:

a. that from at least June 1999 through February 2003, in Fairfax, Virginia, the defendant knowingly prepared at least twenty-five other fraudulent ETA 750

applications on behalf of various employers and Korean immigrants and then presented them to the Department of Labor or the INS for adjudication;

b. that these same applications were fraudulent for one or more of the following reasons: (1) they contained false job offers; (2) they contained fictitious information concerning the alien beneficiary; (3) they contained forged signatures; or (4) they were filed without the alleged applicant's permission;

c. that the defendant or subordinate employees working at his instruction knowingly placed the false information or signatures on the applications and then presented the applications to the government;

d. that the defendant prepared these applications with the intention to mislead the Department of Labor and the INS concerning facts material to the adjudication of the applications; and

e. that these illegal actions were done for profit.

Money Laundering

22. From on or about January 23, 2001, through on or about March 18, 2002, in Fairfax, Virginia, the defendant and Baker wrote John and Jane Doe checks drawn on the defendant's account at the Bank of America branch in Fairfax, Virginia (account number 0041-1889-1110 in the name of Lee, Baker & Warren, PLLC). The defendant and Baker wrote these checks to John and Jane Doe as salary payments for John and Jane Doe's work at the defendant's law firm in order to create a false record of employment for John and Jane Doe.

23. Bank of America account number 0041-1889-1110 is the main operating account of the defendant's law firm and is controlled by the defendant. Into this account, the defendant

deposited proceeds from fraudulent labor certifications and related INS applications he prepared on behalf of immigrants. These deposits included a $2,880 payment on April 19, 2000, by John Doe for his immigration case. They also included regular payments of approximately $5,000 made between January 18, 2001, and March 6, 2002, by James Doe (a relative of John and Jane Doe) to the defendant for John and Jane Doe's fraudulent immigration cases.

24. The defendant wrote fraudulent salary checks to John and Jane Doe with the intent to present them to the INS as proof of John and Jane Doe's employment at the law firm. When he wrote the checks, the defendant knew that the checks were drawn on funds made up in whole or in part of the proceeds of his illegal efforts to file fraudulent labor certifications and related applications on behalf of immigrants, including John and Jane Doe. He further knew that the checks and their later presentation to the INS would promote the carrying on of the same illegal efforts. Specifically, the defendant knew that by engaging in the false salary transactions, he would cause the INS to continue the fraudulent immigration process he had initiated on behalf of John and Jane Doe and would ultimately cause the INS to issue John and Jane Doe fraudulent green cards, all in violation of 18 U.S.C. § 1546(a).

25. The defendant made the last fraudulent salary payment to Jane Doe on or about March 18, 2002, in the form of a Bank of America check in the amount of $910.78. This check was drawn on Bank of America account number 0041-1889-1110 in the name of Lee, Baker & Warren, PLLC, held at the Bank of America branch in Fairfax, Virginia.

26. The Bank of America is a "financial institution" and the drafting, payment, or deposit of a check is a "financial transaction" as those terms are defined in 18 U.S.C. § 1956(c). In addition, immigration fraud in violation of 18 U.S.C. § 1546 is a "specified unlawful activity"

as that term is defined in 18 U.S.C. § 1956(c).

Conclusion

27. This statement of facts includes those facts necessary to support the plea agreement between the defendant and the government. It does not include each and every fact known to the defendant or the government, and it is not intended to be a full enumeration of all of the facts surrounding the defendant's case.

28. The actions of the defendant as recounted above were in all respects knowing and deliberate, and were not committed by mistake, accident, or other innocent reason.

Respectfully submitted,

PAUL J. MCNULTY
UNITED STATES ATTORNEY

By: _____
John T. Morton
Assistant United States Attorney

Defendant's Stipulation and Signature

After consulting with my attorneys and pursuant to the plea agreement I entered into this day with the United States, I hereby stipulate that the above statement of facts is true and accurate. I further stipulate that had the matter proceeded to trial, the United States would have proved the same beyond a reasonable doubt.

Date: _____

Steven Y. Lee
Defendant

Defense Counsel's Signature

We are Steven Y. Lee's attorneys. We have carefully reviewed the above statement of facts with him. To our knowledge, his decision to stipulate to these facts is an informed and voluntary one.

Date: _____

Robert C. Bonsib
John M. Tran
Counsel to the Defendant